

REMARKS

In response to the Official Action of January 17, 2008, claims 1-16 have been amended to more particularly point out and distinctly claim the invention and claim 17 is newly submitted. Newly submitted claim 17 corresponds to original claim 1, but is written using means plus function terminology. No new matter is added.

Minor correction has also been made to the specification to correct a typographical error concerning the character associated with key AK3. The character is correctly shown in Figures 1b and 1c. Furthermore, a "Replacement Sheet" for Figures 1b and 1c is presented to add the "&" as a superscript next to the letter "B" shown associated with key AK2. This is specifically recited in the specification at page 14, lines 12-13 and consequently, no new matter is presented.

Claim Rejections - 35 USC §103

At section 2, claims 1, 8, 10, and 15 are rejected under 35 USC §103(a) as unpatentable in view of SIEMENS (XP-002232615) in view of US patent application publication 2002/0037751, Nagase.

Specifically, SIEMENS is cited with regard to allegedly showing the elements recited in claim 1 except for a controller connected to the multiple input switch and the mode selector. Nagase is cited for showing a portable terminal in which a multiple input switch and a mode selector are associated with a controller (CPU 15). Applicant respectfully disagrees.

More particularly, SIEMENS is directed to a user's manual for an SL45 wireless phone. This phone is capable of being an MP3 player as indicated at pages 25-27 of this manual. The Office asserts that SIEMENS discloses a mode selector for switching between a first mode associated with "create playlist" and a second mode associated with "play" as shown at pages 25 and 26 of SIEMENS respectively. The mode selector is therefore associated with "Options" - "Create playlist" and "Return-to the MP3 player list".

However, both of these modes are associated with the operation of the digital music player rather than one of the modes being exclusively associated with a set of music player functions and the other mode being associated to control device applications other than a set of music player functions. There is no showing in SIEMENS that when in the

first mode a first set of commands is adapted to control device applications including device applications other than music player functions.

Claim 1 has been amended to particularly point out and distinctly claim this feature of the present invention. Support for this amendment is found in the application as originally filed, including page 2, lines 12-17, page 11, lines 25-31, page 12, lines 11-30, and page 13, lines 25-31, and Figures 1a-1c.

SIEMENS therefore only shows that the operation of the MP3 player can be changed from playing songs, such as those in a playlist, to creating a playlist, with switching between these two functions with associated use of a "control key" corresponding to applicant's claimed mode selector.

Consequently, since SIEMENS does not disclose a mode selector for switching an input mode into a first mode and a second mode where the first mode is associated with a first set of commands adapted to control device applications including device applications other than a set of music player functions and wherein the second set of commands corresponds to a second mode is adapted to control a set of music player functions exclusively dedicated to the music player function independent of a current operation mode of the mobile communication device, it is respectfully submitted that the combination of SIEMENS with Nagase does not suggest the present invention since Nagase also fails to disclose the above-recited features of the present invention.

Since claim 1 is believed to be distinguished over the cited art, it is respectfully submitted that dependent claims 8 and 10 are further distinguished over SIEMENS in view of Nagase at least in view of such dependency.

Independent method claim 15 has been amended in a manner similar to claim 1 and is therefore believed to be distinguished over SIEMENS and Nagase for the reasons presented above with regard to claim 1.

New independent mobile communication device claim 17 corresponds to amended claim 1, but written using means plus function terminology. Claim 17 is therefore believed to be allowable over SIEMENS in view of Nagase for the same reasons as presented above with regard to claim 1.

At section 3, claims 2-5 and 11 are rejected under 35 USC §103(a) as anticipated in view of SIEMENS and Nagase further in view of US patent application publication 2002/0161780, Dutta. Claims 2-5 and 11 all ultimately depend from amended claim 1

and are believed to be distinguished over said references at least in view of said dependency.

At section 4, claims 12-14 are rejected under 35 USC §103(a) in view of SIEMENS and Nagase further in view of US patent 5,946,376, Cistulli. Claims 12-14 all ultimately depend from amended claim 1 and are believed to be distinguished over the cited art at least in view of such dependency.

Double-Patenting

Claims 1-16 are rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-4 of US patent 7,133,706. In response thereto, a terminal disclaimer is filed herewith which overcomes said double-patenting rejection.

Allowable Subject Matter

Applicant notes that claims 6, 7, 9, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable upon filing a suitable terminal disclaimer and if rewritten in independent form, including all of the limitations of the base claim and any intervening claims. Claims 6, 7, 9, and 16 are believed to be allowable in their dependent form since each of these claims ultimately depend from either independent claim 1 or 15 which, for reasons presented above, are believed to be allowable.

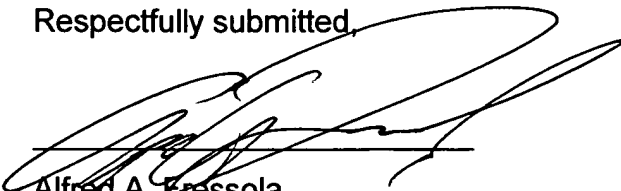
In view of the foregoing, it is respectfully submitted that the present application as amended is in condition for allowance and such action is earnestly solicited.

Respectfully submitted,

Dated: March 27, 2008

WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP

Bradford Green, Building Five
755 Main Street, P.O. Box 224
Monroe, CT 06468
Telephone: (203) 261-1234
Facsimile: (203) 261-5676
USPTO Customer No. 004955


Alfred A. Fressola
Attorney for Applicant
Reg. No. 27,550